

Nonreusable tangible personal property sold to food and beverage vendors, including persons engaged in the business of operating restaurants, cafeterias or drive-ins, is a sale for resale when it is transferred to customers in the ordinary course of business as part of the sale of food or beverages and is used to deliver, package, or consume food or beverages, regardless of where consumption of the food or beverage occurs. See 86 Ill. Adm. Code 130.2070. (This is a GIL.)

January 5, 1999

Dear Ms. Xxxxx:

This letter is in response to your letter dated October 9, 1998. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

COMPANY is a Foodservice distributor. We sell Products to restaurants, schools and nursing homes. I am looking for a comprehensive list of items that we can sell to restaurants that would be tax exempt (for resale). The specific items I need to address are:

- Wetnaps--for restaurants
- Wetnaps--for casinos
- Paper doilies
- Straws
- Toothpicks
- Wrapped toothpicks
- Doggie bags
- Paper napkins
- Disposable placemats
- Carryout containers
- Carryout bags
- Disposable drinking cups
- Ice cube bags
- Coffee stirrers
- Disposable silverware
- Stir sticks
- Portion cups
- Plastic plates
- Plastic steak markers (Med., Rare, etc.)
- Plastic table covers
- Paper table covers
- Paper placemats
- Paper liners for pizza boxes
- Paper liners for baskets for serving to the customer

We have disputes with our customers, and I need to have some documentation to verify the tax status is correct to our customers. I realize that 86 Ill. Adm. Code 130.2070 addresses this issue, but I need the verification that these particular items are tax exempt when sold to our customers in the state of Illinois. If you could please remit to me a list of these items that are exempt from tax in the state of NAME. It would be greatly appreciated.

If there are any questions, please feel free to call me at ####.

Thank you for your cooperation.

Please find enclosed a copy of 86 Ill. Adm. Code 130.2070 concerning Sales of Containers, Wrapping and Packing Materials and Related Products. As you can see from the regulation, nonreusable tangible personal property sold to food and beverage vendors, including persons engaged in the business of operating restaurants, cafeterias or drive-ins, is a sale for resale when it is transferred to customers in the ordinary course of business as part of the sale of food or beverages and is used to deliver, package, or consume food or beverages, regardless of where consumption of the food or beverage occurs. See Section 130.2070(b)(3). Examples of such items include, but are not limited to, paper and plastic cups, plates, baskets, boxes, sleeves, buckets or other containers, utensils, straws, placemats, napkins, doggie bags and wrapping or packaging materials that cannot be reused by the food or beverage vendor and which are transferred to customers as part of the sale of food or beverages. Such items do not include items that are used by the food vendor in conducting his business and that are not transferred to the customer, including but not limited to, paper products, serving trays, serving dishes, utensils or condiment bottles.

Items, such as plastic markers (i.e., placed in food to indicate how it was prepared) or plastic table covers, used primarily by restaurants in their food service operations are fully taxable.

I hope this information is helpful. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Gina Roccaforte
Associate Counsel

GR:msk
Enc.